

REMARKS

Claims 1-20 are pending in the application. Claims 1-11 and 13-20 are rejected. Claim 12 is indicated as allowable if rewritten. Claims 5, 6 and 9-11 are indicated as allowable if rewritten to overcome the Section 112 rejections.

Specification

The Examiner has objected to the Specification requiring the correction of some typos, as well as updating of the status of various other related applications. Those changes have been made, and, thus, the objections to the Specification have been addressed.

Claim Objections

Various of the claims were objected to due to some typographical issues, as well as grammatical issues. Applicant has amended the claims to address the Examiner's objections, and, thus, those objections should now be moot.

Section 112 Rejections

Claims 5-11 and 17-20 were rejected under 35 U.S.C. §112 as being indefinite due to some antecedent basis issues, as well as some perceived clarity issues. Applicant submits that the amendments made to the claims address the Section 112 issues noted by the Examiner and that the claims are now definite and clear.

Section 102 Rejections

Claims 1-4, 7-8 and 13-17 were rejected under 35 U.S.C. §102(b) over Heilman et al. U.S. Patent No. 5,383,840. However, the Heilman et al. reference does not in any way teach a curvature limiting device coupled to an actuator band and operable for limiting the curvature that the actuator band opposes on the indented portion of the heart wall. Specifically, the Examiner refers to column 6, lines 49-57, of the Heilman et al. reference and device 42 as being a curvature limiting device. However, device 42 is only a speed reducer that is coupled to the drive motor. It does not in any way physically limit the curvature that the device of Heilman et al. imposes on the indented portion of the heart wall. As such, the Heilman et al. reference would not in any way anticipate independent claim 1 under Section 102(b).

Notwithstanding the insufficiency of the Heilman et al. reference as an anticipatory reference under Section 102(b), the Applicant has further amended claim 1 to recite the limitations originally set forth in dependent claim 12, wherein a plurality of curvature limiting devices are coupled to the actuator band for limiting the curvature that the actuator band opposes on the indented portion of the heart wall. Claim 1 as currently amended is allowable over the Heilman et al. reference. Applicant notes the Examiner's indication of the allowability of claim 12 as well.

Claim 17 has further been amended to recite a plurality of curvature limiting devices as well. As such, Applicant submits that claim 17 is also in an allowable form.

The rejected claims 2-4, 7-8 and 13-16 each depend from claim 1 and, thus, would be allowable for that reason alone. However, each of those claims also recites the unique combination of elements not taught by cited art. As such, those claims are

also in an allowable form. Accordingly, claims 1-4, 7-8 and 13-17 are allowable over the cited art.

Section 103 Rejections

Claims 18-20 are rejected under 35 U.S.C. §103(a) over the combination of Heilman et al. and Mortier et al. U. S. Patent No. 6,260,552.

The Mortier et al. reference is merely recited to for teaching features of a paving element. As such, the combination of Heilman et al. and Mortier et al. would not render obvious the invention of claim 17, from which claims 18-20 depend. Furthermore, claims 18-20 recite unique combinations of elements not taught by the cited art. As such, claims 18-20 are allowable.

Allowable Subject Matter

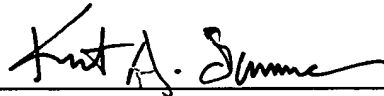
Claims 5-6, 9-11 and 12 were indicated as allowable if rewritten in various ways to be independent or to address Section 112 issues. Applicant submits that, as noted above, those claims are all now in an allowable form as currently pending. Claim 12 has been cancelled pursuant to the amendments to claim 1.

CONCLUSION

Applicant submits that the currently pending claims are in an allowable form and, therefore, requests a Notice of Allowability of the application at the Examiner's earliest convenience. If any issues remain in the case which might be handled in an expedited fashion, such as through a telephone call or an Examiner's Amendment, the Examiner is certainly encouraged to telephone the Applicant's representative or to issue an Examiner's Amendment.

Applicant knows of no fees due herein with this submission. However, if any charges or credits are necessary, please apply them to Deposit Account 23-3000.

Respectfully submitted,
WOOD, HERRON & EVANS, L.L.P.



Kurt A. Summe
Reg. No. 36,023

2700 Carew Tower
Cincinnati OH 45202
(513) 241-2324 (voice)
(513) 421-7269 (facsimile)